FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2684 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.S.K.Jain with R.M.Kedia i/by A.H.Punwani for the petitiner.

Mr.Sunil Patel i/by Bagla Dandekar & Co. for Respondent No.5.

Mr.A.S.Shitole APP for the State.

Coram : R.S.Mohite,J

Date : 2.3.2006.

PC

1. This is a petition for quashing of the process. The order issuing process has been confirmed by the revisional Court. It is noticed that process was issued in this case on 27.4.2000 and summons was served on 27.5.2000. It was only after five years that the petitioner had moved this Court. By an order dated 3.8.2005 passed by this Court, the petitioner was asked to file a revision. The revision has

also been dismissed. It is clear from the record that in this case the evidence of the prosecution consisting only of the statement of the Complainant has already been completed. All the accused persons have cross-examined the Complainant. It appears that the present petitioner refused to cross-examine the complainant. I am informed that the case is now fixed before the trial Court on 20.3.2006 Advocate for the petitioner, on taking instructions from the son of the petitioner who is present in the Court requests that one more chance may be given to him in the interest of justice to complete the cross-examination. He agrees and undertakes that the petitioner would remain present before the Court on 20.3.2006 and commence and complete his cross-examination on the same day or thereafter on day to day basis. In my view, in the interest of justice, the petitioner may be allowed to cross-examine the complainant on 20.3.2006 subject

to his paying cost of Rs.5000/- by a bank draft in the name of the complainant. The said bank draft in the name of the complainant will be handed over to the Advocate for the complainant on or before 10.3.2006. If the bank draft is not handed over, it is made clear that the petitioner will have no right to cross-examine the complainant. Advocate for respondent no.5 i.e. original complainant states that his client will remain present for the purpose of cross-examination on 20.3.2006. Subject to these directions, petition is dismissed. The warrant shall not be executed till 20.3.2006. It is made clear that if there is any default committed by the petitioner in respect of the directions given here-in-above, the warrant will become executable. Liberty to apply for cancellation of warrant on 20.3.2006 before the trial Court.

(R.S.Mohite,J)